

## Changes to Federal New Source Rule

On December 31, 2002, the United States Environmental Protection Agency (EPA) published regulations that significantly change the way new sources of air pollution are permitted. These revisions to the original new source review (NSR) regulations change the applicability to the extent that many projects that were previously required to obtain a permit will no longer be regulated.

### **Federal NSR Changes**

The following four elements are the key changes in the federal NSR rule.

#### **Applicability**

The way calculations are done to determine whether a project will be affected by NSR has changed to a great extent. Now a business can establish a baseline using the best representative 24-month period in the previous 10 years. All units in the project must use the same time period for a particular pollutant. Then to determine an emissions increase, the business is allowed to use their projected actual emissions, which would be a 5-year

projection from the date of modification. They must use a 10-year projection if there will be a change to the "potential to emit" or capacity of any units. This excludes increases that an existing unit was capable of accommodating prior to the change.

#### **Plantwide Applicability Limits (PAL)**

A business can cap their emissions from the whole facility through a PAL. It will allow them to make changes without obtaining a NSR permit so long as their emissions will not exceed the PAL. The PAL is determined using the baseline emission rate and then adding on emissions up to the level considered a significant modification for that pollutant as an additional margin for growth. PALs last for 10 years and there are criteria for increasing or renewing a PAL. Each pollutant would have a separate PAL.

#### **Clean Units**

Any emission unit that has pollution control equipment that was defined as BACT

(continued on page 3)

### **What's New From the Small Business Clean Air Assistance Program...**

✓ **Air Permit Compliance Calendar** - a place to keep all your monthly records and other permit requirements.

✓ **Practical Guide to Environmental Management for Small Business**

✓ **Pre-demolition Environmental Checklist** - provided through DNR, for anyone involved in building demolition work.

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## On-line Permit Help is Now Available for Small Business

As a Wisconsin small business owner, you may be feeling overwhelmed by the number and complexity of rules and regulations in today's society. And you may be wearing many hats (accountant, environmental manager, CEO, etc.).

The Wisconsin Department of Natural Resources (DNR) has designed the Small Business Assistance web site to take you through, step-by-step, the various DNR

programs -- Water Supply, Stormwater, Solid Waste, Hazardous Waste, Waterway and Wetland, and Air -- to:

1) determine what environmental requirements apply to you, including if you need any environmental permits and how to get them, and

2) provide ways to save money and resources through pollution prevention,  
(continued on page 5)

### **In This Issue...**

Article	Page
Final MACT.....	2
Federal NSR.....	3
Daily Air Hotline.....	4
ECHO Update.....	4
Training on State HAP Rule, NR 445.....	4
SPCC Update.....	5
On-line Permit Help for Small Business.....	5
Partners for Clean Air Awards.....	6
Ozone Update.....	7
Asbestos Citation.....	8

# A Multitude of New MACT Standards are Final

EPA Administrator Christine Todd Whitman signed final standards for Maximum Achievable Control Technology (MACT) for 13 source categories on March 3, 2003. MACT standards set a level of emissions reductions of air toxics from these source categories.

Between April 14 and May 29 the standards were published in the Federal Register, at which time the MACT standards become effective. The effective date of the rule sets out the different deadlines by which a source will have to comply under the rule.

The first deadline is quickly approaching for the majority of these 13 source categories. Each source that is affected by a rule must submit an initial notification form to the DNR within 120 days of the effective date of the rule. The list of affected source categories is provided in the box below. Of those source categories, only two have later deadlines for their initial notification: Metal Furniture Surface Coating (May 13, 2005) and Fabric Printing, Coating and Dyeing (May 29, 2004).

EPA developed a generic initial notification form that can be used for any one of these MACT standards. You can find a copy in Adobe PDF on the Department of Commerce web site at: <http://www.commerce.state.wi.us/MT/MT-CA-newregs.html> and go to the Federal Regulations section. Click on the underlined link to the form ("**Initial Notification Form**") at the first bullet and print the form to complete it.

To properly complete the form you will need to indicate how you determined whether you were an affected source. If you need help with calculations to determine whether you are an affected source, you can

contact the program staff at Small Business Clean Air Assistance Program (SBCAAP) for worksheets or one-on-one assistance.

It is also important to note that while the majority of these MACT Standards have the usual compliance deadline of three years after the effective date for an existing source, there is one with a much shorter time frame. The Flexible Polyurethane Foam Fabrication rule requires existing sources to be in compliance with the rule **by April 14, 2004**. Anyone affected by that rule should not delay in their determination of what they need to do to comply.

You will find links to the specific rules for many of these source categories by going to the web site link provided previously and scrolling down to the end of the Federal Regulations section. There is a table with the source categories listed, the MACT standard effective date, the compliance due date, and a brief description of what sorts of tools might be available from EPA. ♦

### Thirteen MACT Categories Final in April/May 2003

Source Category	Effective Date
Flexible Polyurethane Foam Fabrication Operations	April 14
Coke Ovens: Pushing, Quenching, and Battery Stacks	April 14
Reinforced Plastic Composites Production	April 21
Semiconductor Manufacturing	May 22
Refractories Manufacturing <sup>a</sup>	April 16
Brick and Structural Clay Products Manufacturing, and Clay Ceramics Manufacturing <sup>b</sup>	May 16
Asphalt Roofing Manufacturing and Asphalt Processing <sup>c</sup>	April 29
Integrated Iron and Steel Manufacturing	May 20
Hydrochloric Acid Production and Fumed Silica <sup>d</sup>	April 17
Engine Test Facilities and Rocket Testing Facilities <sup>c</sup>	May 27
Metal Furniture (Surface Coating)	May 13
Fabric Printing, Coating, and Dyeing	May 29
Wood Building Products (Surface Coating)	May 28

<sup>a</sup> Includes Chromium Refractories Production

<sup>b</sup> Two subcategories of Clay Products Manufacturing

<sup>c</sup> Two source categories

<sup>d</sup> Includes all sources within the category Hydrochloric Acid Production that burn no hazardous waste, and all sources in the category Fumed Silica.

## Changes in Federal NSR Rules

(continued from Page 1)

when installed can be classified as a clean unit. This classification lasts 10 years and can be applied retroactively, up to five years prior to this rule. A clean unit can go through certain modifications without a NSR permit.

### **Pollution Control Projects**

A project that meets the definition of 'pollution control and prevention measure' can be excluded from NSR. The project must affect existing units and the emissions changes must have a "net environmental gain." EPA is proposing a list of qualifying projects. Any other projects will require a case-by-case approval.

### ***Wisconsin Rule Revisions***

Wisconsin Department of Natural Resources (DNR) is one of the states that is not required to implement the new federal NSR rules on the effective date of March 3, 2003. DNR has incorporated all previous federal NSR requirements into the Wisconsin Administrative Code and received SIP (State Implementation Plan) approval from EPA for their NSR program. Because of that, DNR has three options for responding to the new federal regulations:

1. Make no changes.
2. Incorporate portions of the federal NSR regulations into administrative code.
3. Incorporate all of the federal NSR rule into administrative code.

Any changes DNR makes to the Wisconsin Administrative Code must be effective no later than January 2, 2006.

EPA is assuming that most of the projects no longer affected by the federal NSR program will still be affected by the state minor NSR permit program, thereby ensuring ambient air quality is protected.

DNR will seek input from external stakeholders (industry, environmental groups, citizens), other state permitting authorities, EPA, and national air quality or environmental organizations

(STAPPA/ALAPCO, ECOS, etc.) to determine how to implement the changes in the best interest of the citizens and the environment in Wisconsin.

Also of note, Wisconsin joined a number of other states in a lawsuit on February 27, 2003 when they decided to sue EPA in order to protect the air quality in Wisconsin in the event emissions from other states increase, as it is believed will happen under the federal rule changes. ♦

### **National Academy of Public Administration Publishes Study on NSR Reform April 2003**

The U.S. Congress commissioned a study from the National Academy of Public Administration (NAPA) to conduct an independent management evaluation of the Clean Air Act's NSR program. It was published in April 2003 and yet the administration and EPA decided to proceed with issuing final revisions to the NSR program prior to the completion of this study.

While NAPA's panel found that the program has been effective for new industrial facilities, it has not been protective of the environment and public health when applied to existing facilities. In order to better protect the environment and public health, the panel made the following recommendations:

1. **End Grandfathering.** -- Require all major sources that have not received a NSR permit since 1977 to upgrade equipment and meet BACT or LAER performance standards within the next 10 years.
2. **Retain NSR for Newly Built Sources.**
3. **Continue to Enforce NSR Vigorously.**
4. **Reform NSR for Existing Sources Using a Performance-Based System.** -- This was broken up into a three tier system based on level of emissions reductions and using caps to allow flexibility.
5. **Improve EPA and State Information Systems and Public Accountability.**
6. **Establish Clear Requirements for Compliance.**
7. **Prepare for the Future.** -- The NSR program should be better integrated with other programs, such as Title V permits.

You can read the full report or a summary at:  
**[www.napawash.org](http://www.napawash.org)** under "Just Released". ♦

## 1-866-DAILY AIR (1-866-324-5924)

With the summer ozone season now upon us, it is important to stay abreast of the current weather forecast. With hot, sunny and low wind days comes the chance for unsafe air due to ground level ozone.

State meteorologists declare an Ozone Action Day when weather conditions favor the accumulation of unhealthy levels of ground-level ozone, the chief component of smog and a serious respiratory irritant.

Ozone Action Days are announced on television, radio, newspapers, highway signs, and on the toll free Daily Air Hotline (1-866-324-5924). For additional sources of information, you can go to the DNR and EPA sites that are dedicated to providing air quality information (specifically ozone). To view these go to the following:

1. DNR's Ozone Action Day Site:

<http://www.dnr.state.wi.us/org/aw/air/ozone/OzActionNotice.htm>

2. Airnow, the USEPA site dedicated to air quality issues:

<http://www.epa.gov/airnow/>

## Enforcement and Compliance History Online (ECHO) Update

The Winter 2003 edition of the **Advisor** stated that the EPA's Enforcement and Compliance History Online (ECHO) site was a "pilot" site. ECHO was only pilot to the extent that EPA was taking comments on the site. The site will be permanent after EPA reviews the public comments it has received.

### What is ECHO?

ECHO is a Web tool developed and maintained by the EPA's Office of Enforcement and Compliance Assurance (OECA) for public use. The ECHO Web site, publicly accessible and EPA-maintained, provides compliance and enforcement information for approximately 800,000 regulated facilities nationwide.

Although the public comment period has ended, owners/operators are encouraged to review their reports on ECHO and submit an error notification to the EPA using the error reporting feature on the Detailed Facility Reports. An official communication about the ECHO project is expected to be released in late June. To visit ECHO:

<http://www.epa.gov/echo>

## Training on the State Hazardous Air Pollutant Rule Delayed

In the Winter 2003 edition of the **Advisor**, we told you about tentative dates for training workshops on the state hazardous air pollutant rule, ch. NR 445. Those dates have been postponed due to the present status of the rule.

The Natural Resources Board approved the revisions to ch. NR 445 at its April 22, 2003 meeting. The revised rule was then sent to the Legislature for its review. Representative Johnsrud and Senator Kedzie chaired a joint public hearing on the proposed revisions in front of the Senate and Assembly Natural Resources Committees on May 22, 2003 to hear testimony on the revised rule. They received many comments on the rule.

As follow-up to the public hearing, the Assembly's Natural Resources Committee held an Executive Session on May 28, 2003. They sent the rule back to DNR, recommending changes, but did not give any details on what changes they think should be made. This allows the Committee an additional 10-day review when DNR brings the rule back to the Legislature.

Thus, the final rule is delayed for an indeterminate amount of time. When the rule is final, workshops will be scheduled. We will send postcards to everyone on our mailing list indicating how and when to register. ❖

**For more information on the rule revision:**

<http://www.dnr.state.wi.us/org/aw/air/hot/NR445rev/NR445rev.htm>



## SPCC Update

The Winter 2003 edition of the **Advisor** stated that the **Spill Prevention, Control and Countermeasures Rule (SPCC)** compliance dates were proposed. Those dates have been promulgated in the federal register as final.

The final rule states:

**“an onshore or offshore facility that:**

**(1) was in operation on or before August 16, 2002 must maintain its Plan, but must amend it, if necessary to ensure compliance, on or before August 17, 2004, and must implement the amended Plan as soon as possible, but not later than February 18, 2005;**

**(2) becomes operational after August 16, 2002 through February 18, 2005, and could reasonably be expected to have a discharge, must prepare a Plan on or before February 18, 2005, and fully implement it as soon as possible, but not later than February 18, 2005; and**

**(3) becomes operational after February 18, 2005, and could reasonably be expected to have a discharge, must prepare and implement a Plan before it begins operations.”**

Industries affected by this rule:

- Crop and Animal Production
- Crude Petroleum and Natural Gas Extraction
- Coal Mining, Non-Metallic Mineral Mining and Quarrying
- Electric Power Generation, Transmission, and Distribution
- Heavy Construction
- Petroleum and Coal Products Manufacturing
- Other Manufacturing
- Petroleum Bulk Stations and Terminals
- Automotive Rental and Leasing
- Heating Oil Dealers
- Transportation (including Pipelines), Warehousing, and Marinas
- Elementary and Secondary Schools, Colleges
- Hospitals/Nursing and Residential Care Facilities

Please note this list is not exhaustive. Be sure to review the rule if you think it may apply to your facility. For more information on the rule visit:

<http://www.epa.gov/oilspill>. ❖

## Permit Help for Small Business

(continued from page 1)

waste minimization, water conservation and resource protection.

Go to the web site:

[www.dnr.state.wi.us/permitprimer/](http://www.dnr.state.wi.us/permitprimer/)

Each of the programs has one or more web pages to walk you through the process with a question and answer style format. These pages will also identify opportunities within the process where you may want to consider pollution prevention options. You can read about the pollution prevention options when you see a “**P2**” symbol. Sometimes adopting the right pollution prevention measure can reduce your emissions sufficiently to take you completely out of a permit process.

The web pages will also provide direct links to appropriate DNR staff or outside programs (like the SBCAAP) that can provide assistance with certain steps in the process. Some steps are too complicated to deal with given space constraints of a web page and there may be site specific conditions that need to be considered.

For each program, the web site will provide a list of definitions. You will find these very useful as you encounter the often used vernacular of government agencies -- acronyms.

There are a large number of Air Permit web pages in the Small Business Assistance web site, because the Air permit process is so complex. If you think you may need an Air Permit, be sure to give yourself plenty of time to focus on wading through the pages. It will be easier than trying to figure it out on your own.

Any time you run into a question with permits on the web site and are worried about contacting DNR with your question, feel free to contact SBCAAP. If we can't help, we can ask DNR questions anonymously for you. ❖

# Wisconsin Partners for Clean Air 2002 Recognition Awards

Wisconsin Partners for Clean Air, a coalition of over 300 businesses and organizations committed to voluntarily improving air quality in Wisconsin, has a recognition awards program to recognize businesses and organizations for their accomplishments and to share their success with others. This program is a great opportunity for a business/organization that strides for clean air to receive public recognition, benefit through a positive image in the community, and attract customers' attention.

The awards are given based on the previous year's voluntary actions meeting various qualifications. This year's winners are:

### **SC Johnson**

- ✓participating in the EPA Climate Leader Initiative and exceeding their GHG reduction goals,
- ✓planning to use methane gas from a local landfill for co-generation of electricity and heat at one of their plants,
- ✓designing and sharing the Greenlist™ tool that measures the environmental and biological impacts of raw materials,
- ✓testing EPA's PBT Profiler to evaluate each material's impact to assist in more sustainable purchasing decisions, and
- ✓partnering with Goodwill Industries to recycle over 90 percent of the solid waste from a facility, and investing over 5 percent of profits into international community programs.

### **Urban Ecology Center**

- ✓providing environmental education programs, seminars, workshops, trips and festivals to urban children and the community,
- ✓preserving the surrounding natural resources along the river and park in which they reside,
- ✓operating bi-fuel CNG and electric vehicles,

and

- ✓hosting public ozone classes, designing ozone curriculum, displaying ozone information, encouraging staff and the public to use alternative transit and supporting local bike initiatives.

### **Industrial Towel and Uniform**

- ✓installing solvent recovery equipment to reduce and recover solvent to displace the need for raw materials,
- ✓reducing impacts on Ozone Action Days by tightening facility processes, postponing vehicle fueling and educating employees,
- ✓inviting other businesses and customers to tour their facilities to demonstrate the benefits of waste minimization, and
- ✓exceeding Clean Fuel Fleet Program requirements in their purchase of low emission vehicles.

Receiving Honorable Mentions were:

**American Lung Association of Wisconsin** for their ozone/air quality health media and education campaigns, hybrid vehicle purchase, and participation in the School+Business=Clean Air Program.

**CNH Global RMO** for the installation of a highly efficient, low emission paint system, Ozone Action Day education, and participation in the School+Business=Clean Air Program.

Awards were handed out during the 12th Annual KGMB Business, Industry and Government Seminar on May, 20, 2003. Go to <http://www.execpc.com/~kgmb> for information on the seminar.

**Congratulations to all the winners!** To nominate yourself or a noteworthy organization, please contact Jessica Lawent at (414)263-8653. ❖

# Hot Topics from DNR's Air Program

Check them out at: <http://www.dnr.state.wi.us/org/aw/air/hot/>

## 8-Hour Federal Ozone Standard Update

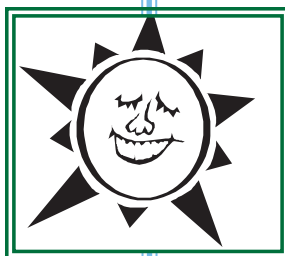
DNR officials met with local communities in May to discuss the federal 8-hour ozone standard. It is possible that the counties of Brown, Rock and Waukesha will become non-attainment for ozone after this summer's ozone season. If any of the mentioned counties go over the 85 parts per billion (ppb) ozone concentration level, that would mean those counties exceeded the standard for three consecutive years - resulting in nonattainment status.

Ground-level ozone is formed when pollutants emitted by cars, power plants, industrial boilers, refineries, chemical plants, and other sources react chemically in the presence of sunlight. Ozone pollution is a concern during the summer months when the weather conditions needed to form ground-level ozone—lots of sun, hot temperatures—normally occur.

So what does this mean if you are in those counties? The data that will be analyzed to determine attainment vs. nonattainment will be taken from 2001-2003 data. If Brown and/or Rock counties go over the 85 ppb concentration level this summer they would be designated non-attainment. The DNR was proposing to classify contributing (borderline) counties non-attainment as well. Meaning, those counties whose air pollution contributes to the air quality of their neighboring counties -- Outagamie, Dodge, Calumet, Winnebago, Fond du Lac, Jefferson, Dane, Columbia and Walworth -- had the potential of becoming non-attainment.

The DNR, with the assistance of public input and its monitoring data, will work with Governor Doyle on identifying which areas of the state will be classified as nonattainment. At the time of this printing, the DNR has decided **not** to recommend to the Governor that any border counties be included. The Governor has until **July 15**,

2003 to send his official recommendations to EPA. The EPA will make the final decision as to which areas are to be classified as non-attainment.



So, what does it mean if your area becomes non-attainment? Examples of possible actions include:

**RACT Rules:** Reasonably Available Control Technology rules require smaller sources of air pollution to reduce the amount of Volatile Organic Compounds (VOCs) emitted into the air (ex: air pollution control devices).

**Air Permitting:** Air Permitting requirements are lower in nonattainment areas. Currently facilities in attaining areas may emit up to 100 tons per year of VOCs before being a "major source" and needing an air permit. Areas with a nonattainment classification of "severe" classify facilities emitting 25 tons per year of VOCs as major sources.

**Motor Vehicle Inspection and Maintenance:** If vehicles do not pass an emission testing process, vehicle registration is not renewed until sufficient repairs are made.

What can you or your company do to help keep the ozone levels down within your area/county?

✓ **Promote Transportation Alternatives.** This could include carpooling to school, work or for social activities. Walk, ride your bike or take public transportation on sunny, warm days when the situation is ripe for ozone formation.

✓ **Postpone lawn maintenance work or filling up your gas tank until late in the afternoon or evening.**

✓ **Use less harmful solvents, paints, cleaning supplies in your processes.** Low VOC products and aqueous based materials are constantly being improved. Talk to your vendors and suppliers to see what is available for your operation. ❖

# Asbestos Citation Authority

On May 29th the DNR received approval from the Natural Resources Board for modifications it made to its proposed Asbestos Citation Authority. The original rule was approved in January, 2003, but the Wisconsin Senate Environmental and Natural Resources Committee requested modifications.

This citation system will allow the DNR to document clear violations and assess forfeitures. The citation system includes violations of certain asbestos program requirements.

The modified rule clarifies the intent of the original rule order. The rule now reads as follows and will limit the use of citations to only those items.

Citations may be issued for any of the following:

- (a) Failure to conduct an inspection.
- (b) Failure to follow notification requirements.
- (c) Failure to follow active waste disposal site requirements.

A citation may be issued with a penalty of not less than \$500, and no more than \$5,000, for each requirement a person or facility violates. Each day of a continued violation is considered a separate offense. If any owner or operator is found in violation for a second time within a five-year period, the penalties can be doubled to \$1000 - \$10,000 for each violation.

The Wisconsin Senate Environmental and Natural Resources Committee and the Assembly Natural Resources Committee each have 10 working days after DNR sends them the modified rule for review. If approved, the effective date of the rule will be sometime in the fall of 2003.

For more information on this rule, contact Mark Davis with the DNR at 608-266-3658 or visit:

[www.dnr.state.wi.us/org/aw/air/reg/calendar.htm](http://www.dnr.state.wi.us/org/aw/air/reg/calendar.htm)



## WISCONSIN DEPARTMENT OF COMMERCE

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### SBCAAP

201 W. Washington Ave,  
P.O. Box 7970  
Madison, WI 53707  
Phone: 608/264-6153  
Fax: 608/267-0436  
Email: [CleanAir@commerce.state.wi.us](mailto:CleanAir@commerce.state.wi.us)

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